

HONORABLE RONALD B. LEIGHTON

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT TACOMA

JEFFERY WATSON,

Plaintiff,

v.

CITY OF VANCOUVER, et al.,

Defendant.

CASE NO. C13-5936 RBL

ORDER DENYING MOTION TO  
EXCLUDE EXPERT FRANK MORO

THIS MATTER is before the Court on Defendant City of Vancouver's Motion to Exclude Plaintiff's expert, Frank Moro. [Dkt. # 60-1]. Moro is expected to testify about the appropriateness of the City police officers' use of force against Jeffrey Watson. The City argues that Moro's testimony should be excluded because his opinions are based on premises rejected by the Supreme Court and the Ninth Circuit, and are based on the unsupported assumption that Watson sustained serious injuries.

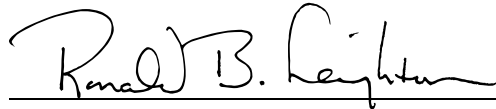
The City's concerns with Moro go to the weight and credibility of his testimony, not its admissibility. These concerns are more properly addressed by cross-examination and jury argument than by excluding his testimony altogether. *See Daubert v. Merrell Dow Pharms., Inc.*, 509 U.S. 579, 596, 113 S.Ct. 2786, 125 L.Ed.2d 469 (1993). ("Vigorous cross-examination, presentation of contrary evidence, and careful instruction on the burden of proof are the

1 traditional and appropriate means of attacking shaky but admissible evidence.”). The City can  
2 cross-examine Moro about the facts underlying his opinions and expose any weaknesses in his  
3 assumptions or opinions. The jury will then determine the weight and credibility to give Moro’s  
4 testimony.  
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6 The City’s Motion to Exclude Expert Frank Moro is DENIED.

7 IT IS SO ORDERED.

8 Dated this 13<sup>th</sup> day of February, 2015.

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11 RONALD B. LEIGHTON  
12 UNITED STATES DISTRICT JUDGE  
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